

REMARKS

These remarks are submitted in response to the Advisory Action and in further response to the FINAL Office Action. In Applicant's previous response, certain amendments were made merely to further distinguish certain features of claimed embodiments. However, the amendments were not believed to be necessary to define over the cited art. Indeed, based on the discussion had between the undersigned attorney and the Examiner during a teleconference, it was clear to the undersigned that the claims in their current form (prior to the previous attempted amendments) clearly define over the cited art. Therefore, Applicant submits this further response, which is based on the status of the claims prior to the last amendment (since it was not entered).

Although Applicant is not averse to the entry of the previous amendment, Applicant does not wish to incur the addition charge required to file an RCE application, and therefore submits this further response. The Advisory Action noted that "the newly proposed amendments to claims 1 and 15 strongly appear to overcome the rejection..." However, and as will become clear from the discussion below, there was no language added in the previously-attempted amendment that uniquely defined over the cited art. Therefore, the claims in their present form clearly define over the art. Should the rejections be maintained, the undersigned intends to proceed through an appeal to the Board of Patent Appeals.

Examiner Interview

The undersigned would like to thank Examiner Wong for taking the time to discuss this matter in a telephonic interview, on May 11, 2005. During that interview, the undersigned and Examiner Wong focused the discussion on the newly cited reference (published application US

2002/0075159A1 – hereafter DeLine). Specifically, the undersigned pointed out that DeLine did not teach the controllable direction of a camera (in response to the movement of a display) to present on the display, an image similar to that which would be observed in a rear-view mirror in a similar position. Instead, DeLine teaches a video device that is coupled to a rear-view mirror (not a display), such that the video device is pointed toward the driver when the rear-view mirror is positioned in its normal position. The purpose is to allow video conferencing between the driver and someone at a remote location. Importantly, the image captured by the video device is not displayed on the rear-view mirror (or a display that is in the general form of a rear-view display), but rather the captured image is communicated to a remote location for display.

Discussion of Substantive Rejections

Turning now to the substantive rejections, the Office Action rejected all independent claims as obvious over the combination of U.S. Patent 6,304,173 (hereafter the ‘173 patent) in view of DeLine. As discussed with Examiner Wong in the telephone interview, and summarized above, a feature of an embodiment of the present application is the cooperative relationship between the position sensor(s) and the servo motor(s) that control the direction of the camera, *such that the image presented on the display effectively mimics that of a conventional rear-view mirror*. Regarding this feature, the specification describes the following:

In the preferred embodiment, the servo system controls the angle or the direction of the camera 150 such that the direction of the camera 150 is substantially co-aligned with the direction 132 of the display 130. Advantageously, *this provides the driver of the vehicle with a “look and feel” of the display that is consistent with the “look and feel” of a conventional rear-view mirror*. In this regard, when a driver, using a conventional rear-view mirror, wants to view an area to the left of the area presently displayed in the rear-view mirror, the driver simply adjusts or angles the rear-view mirror to the

left. Using a system of the present invention, a driver can achieve the same result by adjusting or angling the display 130 to the left. To facilitate this maneuverability of the display 130, the display may be mounted to the vehicle like a conventional rear-view mirror.

(*Emphasis added*, specification, p. 9, lines 3-12).

Accordingly, the independent claims of the present application have been amended to recite defining features. For example, claim 1 recites: “a servo system coupled to the camera, *the servo system being configured to control the direction of the camera based upon information obtained from the at least one position sensor, wherein the direction of the camera is controllably moved so that the visual image on the display is similar to that which would be seen in a conventional rear view mirror that is moved in the same position.*”

Likewise, independent claim 15 recites: “a display in the general form of a rear-view mirror, the display being disposed near a top center portion of a windshield of the vehicle, the display being configured to display an image acquired by the camera, *wherein the direction of the camera is controllably moved so that the visual image on the display is similar to that which would be seen in a conventional rear view mirror that is moved in the same position.*”

The FINAL Office Action admitted that the ‘173 patent has no such teaching or disclosure. The DeLine reference was cited as providing this teaching. However, as discussed with the Examiner and summarized above, the DeLine reference fails to disclose this claimed feature. In this regard, DeLine fails to disclose the motorized movement (e.g., servo system) of the video device in response to corresponding movement of the display (the rear-view mirror in DeLine). For at least this reason, the rejections should be withdrawn.

In addition, even combined, the ‘173 patent and DeLine fail to teach a camera that is directionally controlled to provide, on a display, a captured image that closely mimics a view that would be observed from a conventional rear-view mirror that is positioned in the directional

position of the display. Indeed, the combination of the '173 patent and DeLine more fundamentally fails to disclose a system whereby a capturing camera device is directionally controlled in response to a positioned direction of a coupled display (which displays the image captured by the camera).

Accordingly, as amended independent claims 1 and 15 clearly define over the cited art and these claims should now be allowed.

As a separate and independent basis for the allowability of claims 1 and 15, the undersigned respectfully traverses the combination of DeLine with the '173 patent. As noted near the top of page 4 of the Office Action, the Office Action alleged that the combination was obvious "as a whole" "for providing the driver with a clear line of sight for viewing objects..." As noted above, the teaching of DeLine cannot be applied to the teachings of the '173 patent, since the image captured on the camera of DeLine is not displayed to the driver (nor is it an image of the rear area of the vehicle, but rather an image of the driver himself). For at least this reason, the combination of DeLine with the teachings of the '173 patent is misplaced.

With further regard to the combination, the Office Action alleged that the combination was proper "as a whole." The undersigned respectfully traverses this allegation in support of the combination, as being against the relevant legal standards. In this regard, the Federal Circuit has clearly stated that there must be a teaching, suggestion, or other motivation to combine specific features of the combined references, and not just combine the references as a whole.

It is well settled law that in order to properly support an obviousness rejection under 35 U.S.C. § 103, there must have been some teaching in the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. *W. L. Gore & Associates, Inc. v. Garlock Thomas, Inc.*, 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

"The consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this [invention] should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. ..." Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure... In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention."

(*Emphasis added*) *In re Dow Chemical Company*, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, Applicant notes that there must not only be a suggestion to combine the functional or operational aspects of the combined references, but that the Federal Circuit also requires the prior art to suggest both the combination of elements and the structure resulting from the combination. *Stiftung v. Renishaw PLC*, 945 Fed.2d 1173 (Fed. Cir. 1991). Therefore, in order to sustain an obviousness rejection based upon a combination of any two or more prior art references, the prior art must properly suggest the desirability of combining the particular elements to create an rear-view display system, as claimed by the Applicant. "Particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

"A showing of a suggestion, teaching, or motivation to combine the prior art references is an essential component of an obviousness holding." *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed.Cir.2000)) (*quoting C.R. Bard, Inc., v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed.Cir.1998)); The Federal Circuit has made it clear "that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references."); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed.Cir.1999).

For at least the foregoing reasons, the undersigned respectfully traverses the combination of DeLine with the '173 patent.

Dependent claims

Various rejections have also been made to the dependent claims. However, these rejections should be withdrawn for at least the same reasons set forth in connection with the independent claims.

This submission is made within two months of the mailing date of the FINAL Office Action, and no fee due in connection with this submission.

Respectfully Submitted,

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